

Town Board Minutes

May 20, 2010

Meeting No. 15

A Special Meeting of the Town Board of the Town of Lancaster, Erie County, New York, was held at the Town Hall at 21 Central Avenue, Lancaster, New York on the 20th day of May 2010 at 6:00 P.M. and there were

PRESENT: JOHN ABRAHAM , COUNCIL MEMBER
MARK AQUINO, COUNCIL MEMBER
DONNA STEMPIAK, COUNCIL MEMBER
ROBERT GIZA, SUPERVISOR

ABSENT: RONALD RUFFINO, COUNCIL MEMBER

ALSO PRESENT: JOHANNA COLEMAN, TOWN CLERK
ROBERT HARRIS, ENGINEER, WM. SCHUTT & ASSOCIATES

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER ABRAHAM, TO WIT:

A BOND RESOLUTION, DATED MAY 20, 2010, OF THE TOWN BOARD OF THE TOWN OF LANCASTER, ERIE COUNTY, NEW YORK (THE "TOWN"), AMENDING THE BOND RESOLUTION ADOPTED MAY 18, 2009, AUTHORIZING THE RECONSTRUCTION OF AND CONSTRUCTION IMPROVEMENTS OF VARIOUS ROADS WITHIN THE TOWN INCLUDING, BUT NOT LIMITED TO, GLENDALE DRIVE AND PARKDALE DRIVE, AT AN ESTIMATED MAXIMUM COST NOT TO EXCEED \$700,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$700,000 OF THE TOWN, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

WHEREAS, on May 18, 2009 the Town Board of the Town of Lancaster, Erie County, New York adopted a bond resolution authorizing the reconstruction of and construction improvements of various roads within the Town (the "Project"), in an amount of not to exceed \$500,000; and

WHEREAS, the Town Board has determined to amend the May 18, 2009 bond resolution to increase the estimated maximum cost from \$500,000 to \$700,000 due to an increase in the cost of equipment, materials and labor (as so revised, the "Project"); and WHEREAS, the Town Board desired to undertake the revised Project with the increased cost.

NOW THEREFORE,

BE IT RESOLVED, by the Town Board of the Town of Lancaster, in the County of Erie, New York (the "Town") (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

SECTION 1. The Town is hereby authorized to undertake the reconstruction of and construction improvements of various roads within the Town including, but not limited to, Glendale Drive and Parkdale Drive, and other improvements in connection therewith, including all preliminary work and necessary equipment, materials and related site work and all and all preliminary costs and other improvements and costs incidental thereto (collectively, the "Purpose"). The estimated maximum cost of the Purpose is \$700,000.

SECTION 2. The Town Board plans to finance the estimated maximum cost of the Purpose by the issuance of serial bonds in an amount not to exceed \$700,000 of the Town, hereby authorized to be issued therefor pursuant to the Local Finance Law, offset by any federal, state, county and/or local funds received. The cost of such acquisition is to be paid by the levy and collection of taxes on all real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

SECTION 3. It is hereby determined that the Purpose is an object or purpose described in subdivision 20 of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of the Purpose is 15 years.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of such bonds.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five (5) years.

SECTION 6. The faith and credit of the Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds (and any bond anticipation notes issued in anticipation of the sale of such bonds) as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds or notes becoming due and payable in such year. Unless paid from other sources, there shall annually be levied on all the taxable real property of the Town a tax sufficient to pay the principal of and interest on such bonds or notes as the same become due and payable.

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of such notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00 and Section 63.00 of the Local Finance Law, the powers and duties of the Town Board pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and details as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of such bonds, and the renewals of such notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town.

SECTION 8. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby re-affirmed pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The Town then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the date of the May 18, 2009 Bond Resolution) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute the re-affirmation of the Town's "official intent" to reimburse the expenditures authorized by Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2..

SECTION 9. The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 10. The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 11. The Town has complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under the State Environmental Quality Review Act is necessary.

SECTION 12. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

1. (a) such obligations were authorized for an object or purpose for which the Town is not authorized to expend money, or

(b) if the provisions of the law which should be complied with as of the date of publication of this notice were not substantially complied with and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication of this notice, or

2. such obligations were authorized in violation of the provisions of the Constitution of New York.

SECTION 13. This resolution is subject to permissive referendum pursuant to Section 35.00 of the Local Finance Law. The Town Clerk is hereby authorized and directed to publish (one time) and post on the sign-board of the Town, this resolution, or a summary thereof, together with a notice of adoption of this resolution subject to permissive referendum, within ten (10) days after the date of adoption of this resolution.

SECTION 14. If no petitions are filed in the referendum period, the Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of the Local Finance Law, in the official newspaper(s) of the Town, or if no newspaper(s) have been so designated, then in a newspaper having general circulation in the Town, which newspaper shall be designated by the Town Board in a separate resolution.

SECTION 15. Nothing in this amendment shall affect the validity of the original May 18, 2009 bond resolution, or any action taken thereunder and any said actions are hereby ratified.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED YES
COUNCIL MEMBER AQUINO	VOTED YES
COUNCIL MEMBER RUFFINO	WAS ABSENT
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

The foregoing resolution was thereupon declared duly adopted.

May 20, 2010

**NOTICE OF ADOPTION OF AN AMENDING BOND RESOLUTION,
SUBJECT TO PERMISSIVE REFERENDUM,
AUTHORIZING THE RECONSTRUCTION OF AND
CONSTRUCTION IMPROVEMENTS OF VARIOUS ROADS WITHIN THE TOWN**

Notice is hereby given that at its May 20, 2010, meeting the Town Board of the Town of Lancaster adopted an amending bond resolution that amends a prior bond resolution, dated May 18, 2009, authorizing the reconstruction of and construction improvements of various roads within the Town including, but not limited to, Glendale Drive and Parkdale Drive, including all preliminary work and necessary equipment, materials and site work and all preliminary costs and costs incidental thereto, at the increased estimated maximum amount of \$700,000, said amount to be paid for by the issuance and sale of serial bonds in an amount not to exceed \$700,000, offset by any federal, state, county and/or local funds received. Such increased cost from \$500,000 to \$700,000 is due to an increase in the cost of equipment, materials and labor. Such amending bond resolution is subject to permissive referendum pursuant to New York law.

**BY ORDER OF THE TOWN BOARD OF
TOWN OF LANCASTER, ERIE
COUNTY, NEW YORK**

**TOWN BOARD OF THE
TOWN OF LANCASTER**

**By: JOHANNA M. COLEMAN
Town Clerk**

May 20, 2010

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER STEMPIAK, TO WIT:

WHEREAS, on May 15, 2006, the Town Board of the Town of Lancaster authorized William Schutt & Associates, P.C. to prepare a map, plan and report for Town wide water system improvements.

WHEREAS, on May 20, 2010 William Schutt & Associates presented to the Town Board an amended map, plan and report for Town wide water systems.

NOW THEREFORE BE IT

RESOLVED, that the Town Board of the Town of Lancaster accepts the amended map, plan and report for the Increase and Improvement of Facilities of the Town of Lancaster Consolidated Water District to expand the scope of the project with no increase to the \$7,000,000 estimated maximum cost and bond authorization.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED YES
COUNCIL MEMBER AQUINO	VOTED YES
COUNCIL MEMBER RUFFINO	WAS ABSENT
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

May 20, 2010

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER AQUINO, TO WIT:

**ORDER CALLING
PUBLIC HEARING TO BE HELD ON
JUNE 7, 2010**

WHEREAS, the Town Board of the Town of Lancaster (herein called “Town Board” and “Town”, respectively), in the County of Erie, New York, has, pursuant to Town Law, created the Town of Lancaster Consolidated Water District (the “District”), and has directed WM. Schutt & Associates, competent engineers licensed in New York, to prepare a revised map, plan and report for the District’s water system improvements including the construction of approximately 9,380 linear feet of 12 inch Town owned watermain along Impala Parkway, Steinfeldt Road, Erie Street and Walter Winter Way, and the replacement of approximately 38,610 linear feet of deteriorated watermain with 8 inch Town owned watermain along Broadway, Bowen Road, Lake Avenue, Ransom Road, Townline Road, Waltham Avenue, William Street and Penora Street, all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto, (collectively, the “District Improvement”); and pursuant to the direction of the Town the Engineer has completed and filed with the Town Board such preliminary engineering map, plan and report for said increase and improvement of facilities of the District and has estimated the total cost thereof to be a maximum amount of \$7,000,000; said cost to be financed by the issuance of serial bonds of the Town in the amount of \$7,000,000, offset by any federal, state, county and/or local funds received.

WHEREAS, an amendment to such original map, plan and report was made by WM. Schutt & Associates to include recommended improvements, including the replacement of approximately 4,400 linear feet of deteriorated watermain, on a portion of one additional street, Penora Street, and such amended and revised map, plan and report is on file at the office of the Town Clerk, and available for public inspection at said location; and

WHEREAS, such amended map, plan and report (hereinafter referred to as map, plan and report) has not been modified in any material respect other than as described above.

NOW, THEREFORE, BE IT

RESOLVED, that a meeting of the Town Board of the Town of Lancaster will be held at the Town Hall, 21 Central Avenue, Lancaster, New York, on June 7, 2010 at 8:15 o’clock P.M. (prevailing Time) to consider said increase and improvement of facilities of the District and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law; and be it

BE IT FURTHER

RESOLVED, that the expense of said increase and improvement of the facilities shall be financed by the issuance of serial bonds of the Town in an amount not to exceed \$7,000,000, said amount to be offset by any federal, state, county and/or local funds, and, unless paid from other sources, the costs of said increase and improvement of facilities shall be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District, which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law; and be it

BE IT FURTHER

RESOLVED, that the Town Clerk publish at least once in each newspaper designated as the official newspaper of the Town for such publication, and post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a copy of this Order, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten (10) nor more than twenty (20) days before the date of such public hearing

DATED: May 20, 2010

**TOWN BOARD OF THE
TOWN OF LANCASTER**

By: JOHANNA M. COLEMAN
Town Clerk

(SEAL)

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED YES
COUNCIL MEMBER AQUINO	VOTED YES
COUNCIL MEMBER RUFFINO	WAS ABSENT
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

May 20, 2010

A meeting of the Town Board of the Town of Lancaster, in the County of Erie, New York, was held at the Town Hall, in said Town, on May 20, 2010.

PRESENT:

Hon. Robert H. Giza, Supervisor
John Abraham, Councilperson
Mark Aquino, Councilperson
Donna Stempniak, Councilperson

In the Matter

of the

Increase and Improvement of Facilities of
the Town of Lancaster Consolidated Water District in
the Town of Lancaster, County of Erie, New York,
pursuant to Section 202-b of the Town Law.

**ORDER CALLING
PUBLIC HEARING TO BE HELD ON**

JUNE 7, 2010

WHEREAS, the Town Board of the Town of Lancaster (herein called “Town Board” and “Town”, respectively), in the County of Erie, New York, has, pursuant to Town Law, created the Town of Lancaster Consolidated Water District (the “District”), and has directed WM. Schutt & Associates, competent engineers licensed in New York, to prepare a revised map, plan and report for the District’s water system improvements including the construction of approximately 9,380 linear feet of 12 inch Town owned watermain along Impala Parkway, Steinfeldt Road, Erie Street and Walter Winter Way, and the replacement of approximately 38,610 linear feet of deteriorated watermain with 8 inch Town owned watermain along Broadway, Bowen Road, Lake Avenue, Ransom Road, Townline Road, Waltham Avenue, William Street and Penora Street, all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto, (collectively, the “District Improvement”); and pursuant to the direction of the Town the Engineer has completed and filed with the Town Board such preliminary engineering map, plan and report for said increase and improvement of facilities of the District and has estimated the total cost thereof to be a maximum amount of \$7,000,000; said cost to be financed by the issuance of serial bonds of the Town in the amount of \$7,000,000, offset by any federal, state, county and/or local funds received.

WHEREAS, an amendment to such original map, plan and report was made by WM. Schutt & Associates to include recommended improvements, including the replacement of approximately 4,400 linear feet of deteriorated watermain, on a portion of one additional street, Penora Street, and such amended and revised map, plan and report is on file at the office of the Town Clerk, and available for public inspection at said location; and

WHEREAS, such amended map, plan and report (hereinafter referred to as map, plan and report) has not been modified in any material respect other than as described above.

NOW, THEREFORE, BE IT

RESOLVED, that a meeting of the Town Board of the Town of Lancaster will be held at the Town Hall, 21 Central Avenue, Lancaster, New York, on June 7, 2010 at 8:15 o'clock P.M. (prevailing Time) to consider said increase and improvement of facilities of the District and to hear all persons interested in the subject thereof concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law; and be it

BE IT FURTHER

RESOLVED, that the expense of said increase and improvement of the facilities shall be financed by the issuance of serial bonds of the Town in an amount not to exceed \$7,000,000, said amount to be offset by any federal, state, county and/or local funds, and, unless paid from other sources, the costs of said increase and improvement of facilities shall be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the District, which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law; and be it

BE IT FURTHER

RESOLVED, that the Town Clerk publish at least once in each newspaper designated as the official newspaper of the Town for such publication, and post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a copy of this Order, certified by said Town Clerk, the first publication thereof and said posting to be not less than ten (10) nor more than twenty (20) days before the date of such public hearing

DATED: May 20, 2010

**TOWN BOARD OF THE
TOWN OF LANCASTER**

**By: JOHANNA M. COLEMAN
Town Clerk**

(SEAL)

ADJOURNMENT:

**ON MOTION OF COUNCIL MEMBER STEMPIAK, SECONDED BY
COUNCIL MEMBER AQUINO AND CARRIED,** the meeting was adjourned at
6:08 P.M.

Signed _____

Johanna M. Coleman, Town Clerk

